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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,222	08/02/2005	Michael Smolong	48753	9493
1609 7590 06/03/2009 ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P. 1300 19TH STREET, N.W. SUITE 600 WASHINGTON,, DC 20036				
EXAMINER				
IRVIN, THOMAS W				
ART UNIT		PAPER NUMBER		
3657				
MAIL DATE		DELIVERY MODE		
06/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,222

Applicant(s)

SMOLONG ET AL.

Examiner

THOMAS W. IRVIN

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (5,279,391) in view of Hauser (4,420,990).

In Re claim 11, Ward discloses a lubricating device comprising: gear stages (24,26,28,30,32,34) mounted next to one another and dynamically connected to one another; a lubricant circuit having at least one filter (48) therein, having a lubricant supply (51) for providing lubricant to said first gear stage, having a lubricant inlet (46) for removing lubricant from said second gear stage, and circulating lubricant drawn from said lubricant outlet to said filter for cleaning and then to said lubricant supply. Ward further discloses an immersion bath (40), but fails to disclose individual immersion baths for the gear stages.

Hauser teaches adding a filler (18) to the inside of a transmission casing (11) which separates the gears (A,B,C). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the transmission of Ward, to include transmission filler, as taught by Hauser, to occupy most of the space in a transmission between the gears and the housing (11), thus reducing the amount of

lubricant necessary to lubricate the gears. Examiner notes that doing so would create an individual immersion bath for each gear stage.

In Re claims 14 and 15, Ward further discloses a suction device, motor pump (44), an injection device, nozzle (51), mounted diagonally opposite one another in the upper and lower area of the transmission housing.

In Re claim 16, Ward further discloses that the filter unit (48) is mounted between the motor pump unit (44) and gear housing (12) in the lubricant circuit.

Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (5,279,391) in view of Hauser (4,420,990) as applied to claim 11 above, and further in view of Sann et al. (2004/0074827).

Ward, as modified, teach the claimed invention except failing to teach the specifics of the filter unit.

Sann et al. teach, with reference to Fig. 1, a filter unit (10) having a first fine filter (12), which is safeguarded with a bypass (22), and a coarse filter (32) connected in series with the first filter. The filter fineness of the coarse filter meets the limitations of being approximately 5 to 10 times greater than the filter fineness of the fine filter. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the transmission, taught by Ward as modified, to include a filter unit with two filters and a bypass, as taught by Sann et al., to fully strain the lubrication oil of any contaminants.

Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (6,607,464) in view of Ward (5,279,391) and Hauser (4,420,990).

Bauer et al. disclose a wind power station comprising: a casing (1) with an interior having a first and second gear stages (5,9) (see Fig. 7) mounted next to one another and dynamically connected to one another. Bauer et al. further disclose both planetary and spur gears. Bauer et al. fail to disclose a lubricant circuit.

Ward discloses including in a gearing unit (10), a lubricant circuit having at least one filter (48) therein, having a lubricant supply (51) for providing lubricant to a first gear stage (34), having a lubricant inlet (46) for removing lubricant from a second gear stage (24), and circulating lubricant drawn from said lubricant inlet to said filter for cleaning and then to said lubricant supply.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wind power station to include a lubricant circuit with a filter, as taught by Ward, to provide clean lubricant to the gearing of the power station unit, thus increasing the lifespan of the unit.

Bauer fails to disclose individual immersion baths for the gear stages.

Hauser teaches adding a filler (18) to the inside of a transmission casing (11) which separates the gears (A,B,C). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the power station unit of Bauer et al., as modified, to include transmission filler, as taught by Hauser, to occupy most of the space in the transmission between the gears and the housing (11), thus

reducing the amount of lubricant necessary to lubricate the gears. Examiner notes that doing so would create an individual immersion bath for each gear stage.

In Re claims 14 and 15, Ward further teaches a suction device, motor pump (44), an injection device, nozzle (51), mounted diagonally opposite one another in the upper and lower area of the transmission housing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the power station unit to include a lubricant motor pump (44), and nozzle (51) mounted diagonally opposite one another in the upper and lower area of the transmission housing to circulate and provide clean lubricant to the gearing of the power station unit, to increase the lifespan of the unit.

In Re claim 16, Ward further teaches that the filter unit (48) is mounted between the motor pump unit (44) and gear housing (12) in the lubricant circuit.

Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (6,607,464) in view of Ward (5,279,391) and Hauser (4,420,990) as applied to claim 11 above, and further in view of Sann et al. (2004/0074827).

Bauer et al., as modified, teach the claimed invention except failing to teach the specifics of the filter unit.

Sann et al. teach, with reference to Fig. 1, a filter unit (10) having a first fine filter (12), which is safeguarded with a bypass (22), and a coarse filter (32) connected in series with the first filter. The filter fineness of the coarse filter meets the limitations of being approximately 5 to 10 times greater than the filter fineness of the fine filter.

I would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the transmission, taught by Bauer et al. as modified, to include a filter unit with two filters and a bypass, as taught by Sann et al., to fully strain the lubrication oil of any contaminants.

Response to Arguments

Applicant's arguments filed 04 February 2009 have been fully considered but they are not persuasive.

Applicant's arguments regarding the 103(a) rejection of claims 11 and 14-16 by Ward (5,279,391) and Hauser (4,420,990) have been fully considered, but they are not persuasive. The examiner points to fig. 3 of Hauser, which shows the division of gear stages A, B, and C by the filler (18). The filler of Hauser would merely be utilized to fill the void spaces within the gear casing of Ward, and as a result of the filler being used in the gear casing of Ward, it is the examiner's belief that the filler would effectively separate the space around the gear stages into separate "immersion baths", as claimed. Though the claims are directed to the apparatus, the examiner believes that, in the system as modified, oil would spill over from one gear stage to the next (34→32→30...) as applicant's invention.

In response to applicant's arguments concerning the rejection by Bauer, the examiner has corrected the wording of the rejection to more clearly indicate that Bauer is modified by both Ward and Hauser. No arguments are filed concerning the

combination of Bauer and Ward or Hauser. Applicant is directed to the above remarks concerning the combination of Ward and Hauser.

Additionally, regarding applicant's arguments against the references individually; one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS W. IRVIN whose telephone number is (571)270-3095. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas W. Irvin/
Examiner, Art Unit 3657

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3657